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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,244	01/29/2001	Rajkishore Barik	JP920000376US1	9198
29154	7590	09/19/2012	EXAMINER	
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ART UNIT		PAPER NUMBER		
3622			NOTIFICATION DATE	
09/19/2012			DELIVERY MODE	
ELECTRONIC				

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RAJKISHORE BARIK and PARUL A. MITTAL

Appeal 2011-000813
Application 09/772,244
Technology Center 3600

Before, ANTON W. FETTING, JOSEPH A. FISCHETTI, and
MEREDITH C. PETRAVICK, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appeal 2011-000813
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STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-2,4-5,7, 15-16, 18-19, 22-31,33-35,49-57,59-62,64,66-67 and 69-70. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

Claim 49, reproduced below, is representative of the subject matter on appeal.

49. (Rejected) A computer program product having a computer readable medium having a computer program recorded therein for electronic coupon (e-coupon) decision support, said computer program product including:

computing a set of applicable e-coupons dependent upon a set of e-coupons of a user;

determining if said computed set of e-coupons complies with one or more redeeming conditions, which of said set of e-coupons are mutually exclusive within a same purchase and which of said set of e-coupons are non-mutually exclusive to be used in combination within the same purchase;

performing an optimization process on said selection of e-coupons to maximize a discount amount, a number of loyalty points, and a number of free items, by determining if said computed set of e-coupons determined to comply with said redeeming conditions and capable of being used in combination within the same purchase satisfy optimization parameters defined by said user, wherein said optimization parameters comprise at least one of a discount amount, loyalty points, a number of free items received, whether at least one particular e-coupon should be included, whether at least one particular e-coupon should not be included, expiration date, and a total number

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of e-coupons used, said optimization process determining a most favorable combination of non-mutually exclusive e-coupons;

before said user makes a purchase, outputting a suggestion to said user displaying said most favorable combination of non-mutually exclusive e-coupons based on said determining said mutually exclusive e-coupons, said most favorable combination of non-mutually exclusive e-coupons comprising only said computed set of e-coupons determined to comply with said redeeming conditions and capable of being used in combination within the same purchase that satisfy said optimization parameters;

saving said displayed, computed set of e-coupons determined to comply with said redeeming conditions and capable of being used in combination within the same purchase and choosing another subset of said e-coupons;

comparing by a user two or more saved sets of e-coupons; choosing one of said saved sets of e-coupons; and

recommending to said user to use an additional e-coupon in relation to said purchase based on said choosing one of said saved sets of e-coupons.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Marmon	US 4,446,528	May 1, 1984
Wilkman	US 2002/0013728	Jan. 31, 2002
Beach	US 2002/0107738 A1	Aug. 8, 2002
Fajkowski	US 2002/0230473 A1	Oct. 20, 2005

The following rejections are before us for review.

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The Examiner rejected claims 1-2, 4-5, 7, 15-16, 18-19, 22-27, 30-31, 33, 35, 49-54, 57, 59, 61, 62, 66, 67, 69, and 70 under 35 U.S.C. 103(a) as being unpatentable over Fajkowsk.

The Examiner rejected claims 34, 60, and 64 under 35 U.S.C. 103(a) as being unpatentable over Fajkowsk in view of Beach.

The Examiner rejected claims 1-2, 4-5, 7, 15-16, 18-19, 22-27, 30-31, 33, 35, 49-54, 57, 59, 61, 62, 66, 67, 69, and 70 under 35 U.S.C. 103(a) as being unpatentable over Fajkowsk in view of Marmon.

The Examiner rejected claims 34, 60, and 64 under 35 U.S.C. 103(a) as being unpatentable over Fajkowsk in view of Marmon and Beach

The Examiner rejected claims 1-2, 4-5, 7, 15-16, 18-19, 22-27, 30-31, 33, 35, 49-54, 57, 59, 61, 62, 66, 67, 69, and 70 rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowsk in view of Wilkman.

ANALYSIS

Each of the independent claims 1, 15, 22, 49 and 62 require in one form or another:

“saving said displayed most favorable combination of non-mutually exclusive e-coupons determined to comply with said redeeming conditions

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and capable of being used in combination within the same purchase and choosing another subset of said e-coupons;

choosing one of saved sets of e-coupons based on comparing two or more of said saved sets of e-coupons; ”

The Examiner maintains that Fajkowski discloses this limitation because:

Fajkowski teaches that the user may save shopping lists with specified coupons for the products on the list to be used on future shopping trips [13:14-41]. Fajkowski also teaches the idea of issuing a rain check for a coupon item the user wishes to purchase, but where the item is currently unavailable. The system will save such a list of rain-checked product(s) for later use. In either case, future use of the saved lists are taken to meet the broad "comparing" by a user. Further, the art describes the capability to save any number of coupons which enables saving combinations of coupons. It would have been obvious to one of ordinary skill at the time of the invention to have recalled saved coupons or a combination of saved coupons for later consideration (i.e. for future comparison). It would have been obvious to one of ordinary skill at the time of the invention for the system's coupon(s) recommendations to have included coupons that had been "saved".

(Answer 19).

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Appellants however argue that:

The user-segregated coupons are used after the user has purchased the items per Fajkowski's disclosure at column 17, and the raincheck marked coupons are used to merely allow a customer to "utilize the coupon after its expiration date," from column 20, [sic] lines 39-47. There is no comparison between either of these "lists," since each "list" is disclosed as being used independently of the other.

(Reply Brief 6-7).

All independent claim rejections use Fajkowski as the base reference for the limitation set forth *supra*. As such, we do not agree with the Examiner's finding above that, even if we were to read the rainchecks as mutually non-exclusive coupons, there still is no teaching in any of the references relied on by the Examiner to compare the rainchecks as a separate subset to another subset of mutually non-exclusive coupons as the Examiner proposes. If anything, the rainchecks would seem to be comingled with other mutually non-exclusive coupons since they simply allow a coupon to be used after its expiration date. (Fajkowski, p. 9, [0067].

The Examiner's reliance on Marmon and Wilkman in combination with Fajkowski under 35 U.S.C. § 103(a) fails to remedy this defect.

Accordingly, we will not sustain any of the rejections made under 35 U.S.C. § 103(a) of independent claims 1, 15, 22, 49 and 62 using Fajkowsk alone and/or in combination with Marmon, Wilkman, and Beach. Since we

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cannot sustain the rejection of independent claims 1, 15, 22, 49 and 62, the rejection of the claims which depend therefrom likewise cannot be sustained.

DECISION

REVERSED

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